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Paper 26  
Filed January 28, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**GM Global Technology Operations, Inc.,**  
Junior Party  
(Patent 7,459,065)  
Inventors: Nelson A. Kelly and Thomas L. Gibson),

v.

**Thomas W. Oakes,**  
Senior Party  
(Application 10/785,234).

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Patent Interference No. 105,692 (RES)  
(Technology Center 1700)

Before: RICHARD E. SCHAFER, JAMESON LEE and SALLY G.  
LANE, *Administrative Patent Judges.*

SCHAFFER, *Administrative Patent Judge.*

**Judgment – Concession of Priority – 37 C.F.R. § 41.127(b)(3)**

- 1 Oakes has filed a concession of priority. Paper 24. Oakes concession
- 2 is construed as a request for adverse judgment as to the subject matter of
- 3 Count 1 (Paper 18, p. 2). 37 C.F.R. § 41.127(b).

1           Oakes was authorized to and has filed amended claims. Paper 25.  
2   Oakes requests that the amended claims be placed into the administrative  
3   record of his application 10/785,234. GM does not oppose that request. The  
4   request is granted and a copy of the amendment shall be made of record in  
5   the application. As noted in Paper 23, while the paper amending or adding  
6   claims would be made of record in the application file, the board has no  
7   control over how the examining corps will act on those claims. How the  
8   amendment will be treated is totally at the discretion of the Office of the  
9   Commissioner for Patents.

10           It is

11           **ORDERED** that judgment on priority as to the subject matter of  
12   Count 1 (Paper 18, p. 2) is awarded against the senior party, Thomas W.  
13   Oakes;

14           **FURTHER ORDERED** that senior party, Thomas W. Oakes, is not  
15   entitled to a patent including the subject matter of claims 1, 3-20, 23-27, 29-  
16   35 of Application 10/785,234;

17           **FURTHER ORDERED** that claims 1, 3-20, 23-27, 29-35 of  
18   Application 10/785,234 all corresponding to Count 1 are finally refused (35  
19   U.S.C. § 135(a));

20           **FURTHER ORDERED** that a copy of the paper titled “Oakes  
21   Amended Claims” (Paper 25) be made of record in the file history of  
22   Application 10/785,234;

23           **FURTHER ORDERED** that a copy of this judgment be made of  
24   record in the file histories of Patent 7,459,065 and Application 10/785,234;

1           **FURTHER ORDERED** that if there is any settlement agreement or  
2 related documents that have not been filed, attention is directed to 35 U.S.C.  
3 § 135(c) and 37 C.F.R. § 41.205.

/Richard E. Schafer/ RICHARD E. SCHAFER Administrative Patent Judge	)	
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/Jameson Lee/ JAMESON LEE Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
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/Sally G. Lane/ SALLY G. LANE Administrative Patent Judge	)	
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cc (electronic delivery):

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